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| APPLICATION NO.               | FILING DATE    | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|-------------------------------|----------------|----------------------|------------------------|------------------|
| 10/631,354                    | 07/30/2003     | David W. Hirsch      | FR0001                 | 3466             |
| 33422 7:                      | 590 12/09/2005 |                      | EXAMINER               |                  |
| GOODMAN, ALLEN & FILETTI PLLC |                |                      | MAYES, DIONNE WALLS    |                  |
| 4501 HIGHWC<br>SUITE 210      | OODS PARKWAY   |                      | ART UNIT               | PAPER NUMBER     |
| GLEN ALLEN                    | I, VA 23060    |                      | 1731                   |                  |
|                               |                |                      | DATE MAILED: 12/09/200 | 5                |

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |  |   |  | <i>i</i> |  |  |  |
|---|--|---|--|----------|--|--|--|
| Office Action Summary   |  | Application No.   | Applicant(s)   |          |  |  |  |
|   |  | 10/631,354  | HIRSCH ET AL.  |          |  |  |  |
|   |  | Examiner  | Art Unit   |          |  |  |  |
|   |  | Dionne Walls Mayes  | 1731   |          |  |  |  |
| The MA<br>Period for Reply  | AILING DATE of this communication app  | ears on the cover sheet with  | the correspondence address -   |          |  |  |  |
| WHICHEVER - Extensions of time after SIX (6) MON - If NO period for re - Failure to reply wi Any reply received | ED STATUTORY PERIOD FOR REPLY IS LONGER, FROM THE MAILING DA as may be available under the provisions of 37 CFR 1.13 ITHS from the mailing date of this communication. sply is specified above, the maximum statutory period we thin the set or extended period for reply will, by statute, d by the Office later than three months after the mailing m adjustment. See 37 CFR 1.704(b). | ATE OF THIS COMMUNICA<br>16(a). In no event, however, may a rep<br>rill apply and will expire SIX (6) MONTH<br>cause the application to become ABAI | ATION.  by be timely filed  IS from the mailing date of this communication.  IDONED (35 U.S.C. § 133). |          |  |  |  |
| Status  |  |   |  |          |  |  |  |
| 1)☐ Respons   | sive to communication(s) filed on  | _•  |  |          |  |  |  |
| 2a)☐ This acti  | This action is <b>FINAL</b> . 2b) This action is non-final.  |   |  |          |  |  |  |
| 3)☐ Since th  | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is  |   |  |          |  |  |  |
| closed in   | accordance with the practice under E   | x parte Quayle, 1935 C.D.   | 11, 453 O.G. 213.  |          |  |  |  |
| Disposition of Cla  | aims   |   |  |          |  |  |  |
| 4a) Of the 5) ☐ Claim(s) 6) ☑ Claim(s) 7) ☐ Claim(s)  | 1-34 is/are pending in the application. e above claim(s) is/are withdraw is/are allowed. 1-34 is/are rejected is/are objected to are subject to restriction and/or   |   |  |          |  |  |  |
| Application Pape  | rs   |   |  |          |  |  |  |
| 10)∭ The draw<br>Applicant<br>Replacen  | ification is objected to by the Examiner ring(s) filed on is/are: a) access may not request that any objection to the conent drawing sheet(s) including the correction or declaration is objected to by the Examination  | epted or b) objected to by<br>frawing(s) be held in abeyance<br>on is required if the drawing(s)  | e. See 37 CFR 1.85(a).<br>is objected to. See 37 CFR 1.121(d).   | • .      |  |  |  |
| Priority under 35   | U.S.C. § 119   |   |  |          |  |  |  |
| a)  | edgment is made of a claim for foreign    Some * c) None of: ertified copies of the priority documents ertified copies of the priority documents opies of the certified copies of the priori eplication from the International Bureau ttached detailed Office action for a list of   | have been received. have been received in Applity documents have been re(PCT Rule 17.2(a)).   | elication No eceived in this National Stage  |          |  |  |  |
|   | nces Cited (PTO-892)<br>person's Patent Drawing Review (PTO-948)<br>losure Statement(s) (PTO-1449 or PTO/SB/08)  |   | nmary (PTO-413)<br>Mail Date<br>rmal Patent Application (PTO-152)                                      |          |  |  |  |
| Paper No(s)/Mail  | Date   | 6) 🔲 Other:   |  |          |  |  |  |

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#### **DETAILED ACTION**

### **Examiner Claim Suggestions**

1. The Examiner believes that designating the method steps by letters, i.e. "a", "b", "c", may be potentially confusing when a depending claims has the same letter designations. For example, Claim 1 has steps "a" – "e", and dependent claim 13 also has steps "a" – "d". The Examiner believes that the lettering of steps, especially, in the dependent claims, omitted in order to avoid confusion. Also, in independent claim 18, the letter designations of the steps begin with letters "f" – "j", yet dependent claim 30 has steps designated by letters "a" – "d". In general, the letter-designated steps should be consistent, or the letters removed completely.

## Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al (US. Pat. No. 5,284,164).

Andrews et al discloses nearly all that is recited in the claims since it teaches a method for improving the quality of products produced in the cigarette manufacturing process which comprises automatically sampling/testing intermediate and final products produced during the entire production of cigarettes. Andrews et al teaches a cigarette manufacturing process which comprises numerous machines, including those arranged

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in tandem, such as a filter rod maker and a cigarette maker. The process for improving quality in the final cigarettes includes automatically testing/sampling quality parameters of products of the filter rod maker (corresponding to the claimed "at least one component part"), such as circumference, pressure drop and weight. It also includes testing/sampling quality parameters of products of the cigarette maker (corresponding to the claimed "completed cigarettes"), such as circumference, ventilation, pressure drop and weight. Any of these parameters are measured for the filter part, and also for the completed cigarette, and the data from such sampling is compared, and evaluated in relation to stored data in a computer, which enables the computer to determine (obviously by some sort of algorithm) whether any changes to the operation of the individual machines based on whether the measure values fall outside of optimal values, such that the machines can be adjusted accordingly, based on what is displayed on a video output screen. A careful reading of Andrews et al clearly suggests, if not teaches, the limitations of the dependent claims (See entire document).

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### Conclusion

- 4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - Kiernan et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne Walls Mayes whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dionne Walls Mayes Primary Examiner Art Unit 1731 Page 4

December 6, 2005